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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/779,831	02/09/2001	Neil Balthaser	23977.0028	6859
23767	7590	09/21/2005	EXAMINER	
PRESTON GATES ELLIS & ROUVELAS MEEDS LLP 1735 NEW YORK AVENUE, NW, SUITE 500 WASHINGTON, DC 20006			SHAH, SANJIV	
			ART UNIT	PAPER NUMBER
			2625	

DATE MAILED: 09/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.



**Office Action Summary**

Application No.	Applicant(s)	
09/779,831	BALTHASER, NEIL	
Examiner	Art Unit	
Sanjiv D. Shah	2625	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 23 June 2005.  
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-62 and 79-125 is/are pending in the application.  
4a) Of the above claim(s) 63-78 and 126-165 is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1-19, 41 and 79-81 is/are rejected.  
7) ☒ Claim(s) 20-40, 42-62 and 82-125 is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |



***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-19, 41, 79-81 are rejected under 35 U.S.C. 102(e) as being anticipated by Bonomi et al. (Patent # 6,769,127).

Regarding claim 1, Bonomi et al. teaches the claimed invention of designing and creating rich-media application over Internet (See fig 1B) comprising;

Accessing host website (Col. 2, line 40-42), examining available products ( See col. 5, lines 32-36) Bonomi et al. teaches the claimed limitation of constructing rich media application on host website as described in col. 3, lines 53-55.

Regarding claim 2, 4, 5, 6, Bonomi et al. teaches the claimed invention of purchasing the ability to construct rich-media on host website is described in col. 3, lines 7-10. See col. 9, lines 35-40.



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Regarding claim 3, Bonomi et al. teaches the claimed invention of modifying the rich media application based on user feedback as described in col. 7, lines 1-2, wherein Bonomi et al. teaches format conversion that is equivalent to claimed modification.

Regarding claims 7, 8, Bonomi et al. teaches the claimed invention of selecting a level of service as described in col. 5, lines 50-55, wherein Bonomi teaches providing different level of service in an e-commerce i.e. video on demand application.

Regarding claims 9-16, Bonomi teaches the claimed invention of selecting a movie file component and uploading component as shown in fig 8E and 11B.

Regarding claims 17, 18, 19, 41, 79, 80, 81, Bonomi et al. teaches the claimed invention of creating user accounts (See fig 12D), accessing user account (see fig 12C), viewing available option for creating rich-media application (fig 11B)

***Allowable Subject Matter***

3. Claims 20-40,42-62 and 82-125 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.



***Response to Arguments***

4. Applicant's arguments as regards to 101 rejection and 112 rejection are persuasive and therefore rejections withdrawn. Claims 63-78 and 126-165 have been withdrawn from consideration in view of restriction.

5. Applicant's arguments filed 6/23/2005 regarding art rejection have been fully considered but they are not persuasive.

As per claim 1, applicant argues that the cited references fails to teach designing and creating rich media. Applicant further argues that Bonomi merely shows that subscribers may customize the program guides, service packages and other service packages but fails to teach actual design. Examiner disagrees. Specifically, broadest reasonable interpretation of customizing a program guide is constructing a new program guide (media). Claims are not limited by any specific design or creation step. Therefore applicant's arguments are not persuasive.

As per claims 2, 4-6, Applicant argues that cited reference fails to teach purchasing ability to construct rich media applications on website and that Bonomi et al. simply relates to charging fees for storing data on a web space. Examiner disagrees. As specifically cited on col. 9, lines 25-40, Bonomi et al. provides ability to purchase (rent) data space for their own use and storage. Since Bonomi teaches ability to customize program guides and store it on rented web space, it is equivalent to claimed purchasing ability to construct and host website. Therefore applicant's arguments are not persuasive.



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As per claim 3, applicant argues that format conversion is not equivalent to modification of rich media application. Broadest reasonable interpretation without any specific limitation of modification is any change. Therefore applicant's arguments are not persuasive.

As per claims 9-16, 17 18, 19, 41, 79, 80 and 81, applicant argues that selection and uploading a movie file component does not teach creation of rich media application. Examiner disagrees. Specifically claims are not limited to any specific creation steps. Selection and uploading in Bonomi provides new file, which is equivalent to claimed creation. Therefore applicant's arguments are not persuasive.

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

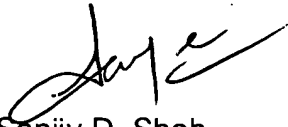
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.



Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sanjiv D. Shah whose telephone number is (571) 272-4098. The examiner can normally be reached on M-F 9-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bhavesh M. Mehta can be reached on (571) 272-7453. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Sanjiv D. Shah  
Primary Examiner  
Art Unit 2625

S. Shah  
September 18, 2005